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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR :	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,376	03/09/2004	Scott G. Huling	HULINGIC	6409
1444	7590	11/01/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C.			CINTINS, IVARS C	
624 NINTH STREET, NW			ART UNIT	
SUITE 300			PAPER NUMBER	
WASHINGTON, DC 20001-5303			1724	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,376

Applicant(s)

HULING ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 19-21, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 11, 22 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Applicant's election with traverse of Group I, claims 1-13 and 19-25, in the reply filed on April 22, 2005 is acknowledged. Applicant's election with traverse of: gas as the fluid treated species, Fe (II) as the iron species, activated carbon as the sorbent species, hydrogen peroxide as the oxidizing agent species, organic chemicals as the contaminant species, and hydroxylamine as the reductant species is also acknowledged. Claims 14-18 are withdrawn from further consideration, as being directed to a non-elected invention.

The traversal is on the grounds that: (1) the statutory restriction standard that the inventions be "independent and distinct" has not been met; (2) classification does not support a restriction requirement; (3) Applicant has a right to define the invention; (4) the search does not impose a serious burden; (5) Applicant has paid for examination of all claims; and (6) restriction is discretionary. This is not found persuasive because: (1) under the statute, an application may properly be restricted to one of two or more claimed inventions if they are either independent or distinct (see M.P.E.P. § 803); (2) the inventions of Groups I and II are separately classified, and therefore the searches for each group are not coextensive; (3) while Applicant has a right to define his invention, the Office may require the application to be restricted to one invention (see 35 U.S.C. § 121); (4) the additional search for the non-elected invention of Group II would constitute a serious burden upon the examiner; (5) Applicant has paid for examination of one invention; and (6) the examiner has exercised his discretion to restrict this application.

The restriction requirement between the process and composition is still deemed proper and is therefore made FINAL. However, since all of the elected process claims read on all of the elected species, the election of species requirement is hereby withdrawn.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12, 13, 19-21, 23 and 24 are again rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 99/58239.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims because the references of record do not teach or fairly suggest a process for treating contaminants in a fluid in the manner recited, wherein the contaminant is a gas.

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims because the references of record do not teach or fairly suggest a process for removing contaminants from fluids in the manner recited, wherein volatile emissions produced in the adsorbent reactor are vented to a gas phase carbon adsorption unit.

Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims because the references of record do not teach or fairly suggest a process for treating contaminants in a fluid in the manner recited, wherein the fluid treated is a gas.

Applicant's arguments filed December 22, 2004 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that WO '239 does not anticipate the claims of this application because this reference only discloses treating

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water, and does not disclose treating fluids. It is pointed out, however, that since water is a type of fluid, this reference clearly anticipates claims 1-10, 12, 13, 19-21, 23 and 24.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

This application contains claims 14-18 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 C.F.R. § 1.144). See M.P.E.P. § 821.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
October 30, 2005